

Assembly Bill No. 2877

Passed the Assembly August 31, 2006

Chief Clerk of the Assembly

Passed the Senate August 31, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 14982 of, and to repeal Section 14981 of, the Government Code, and to add Article 5 (commencing with Section 110242) to Chapter 2 of Part 5 of Division 104 of the Health and Safety Code, relating to prescription drugs.

LEGISLATIVE COUNSEL'S DIGEST

AB 2877, Frommer. Prescription drugs: importation: procurement.

(1) Existing law authorizes the Department of General Services to enter into exclusive or nonexclusive contracts on a bid or negotiated basis with manufacturers and suppliers of single source or multisource drugs. Existing law requires specified state agencies to participate in the prescription drug bulk purchasing program. Existing law requires the department to submit a report to the appropriate policy and fiscal committees of the Legislature on activities that have been, or will be, undertaken pursuant to these provisions.

This bill would, among other things, require the department to develop strategies for the state to achieve savings through greater use of generic drugs and would revise the reporting requirements.

(2) Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of the packaging, labeling, and advertising of food, drugs, devices, and cosmetics, under the administration of the State Department of Health Services.

Existing law, the Pharmacy Law, provides that any pharmacy located outside of this state that delivers, in any manner, controlled substances, dangerous drugs, or dangerous devices into this state is considered a nonresident pharmacy and requires a nonresident pharmacy to register with the California State Board of Pharmacy and comply with all lawful directions of, and requests for information from, the state in which it is a resident.

Existing federal law requires any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug that is imported or offered for import into the United States to register

with the federal Secretary of Health and Human Services, report a list of each drug introduced for commercial distribution, and provide required information and statements.

This bill would establish the California R Prescription Drug Web Site Program. The bill would require the State Department of Health Services to administer the program. It would also require the department to establish a Web site on or before July 1, 2008, to provide information to California residents about options for obtaining prescription drugs at affordable prices. The bill would, except as specified, require that the Web site, at a minimum, provide information about, and establish electronic links to, certain federal, state, and pharmaceutical manufacturer programs, and other Web sites.

This bill would authorize the department to assess a fee on international pharmacies that the department reviews for possible inclusion on the Web site to offset the cost of reviewing those pharmacies. The bill would require the department's Web site to include price comparisons of prescription drugs, including prices charged by licensed pharmacies in the state. The bill would provide that the implementation of the program shall be contingent upon an appropriation, if the department determines that the requirements of the program cannot be implemented without additional funding, in which case the bill would require the department to request an appropriation from the Legislature for that purpose.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Prescription drugs have become essential for ensuring the health of millions of Californians.

(b) The United States is the largest trade market for pharmaceuticals in the world, yet American consumers pay the highest prices for brand-name pharmaceuticals in the world.

(c) Increased spending on prescription drugs is a significant driver of increases in overall health care costs, with spending nationwide on prescription drugs rising over 15 percent each year from 2000 to 2002.

(d) Rising out-of-pocket costs for prescription drugs are placing a growing burden on California consumers, as evidenced by federal government statistics that show that in 2002 the increase in consumers' out-of-pocket costs for prescription drugs was greater than the increase in out-of-pocket costs for all other health care expenditures.

(e) The price of brand-name drugs is rising faster than the rate of inflation, with a recent study showing that the price of 30 drugs most frequently used by the elderly rose by over four times the rate of inflation in 2003 and that some drugs increased in price by 10 times the rate of inflation in that year.

(f) The rising cost of prescription drugs jeopardizes the health of seniors, the disabled, and other consumers who cannot afford the medication they need to stay healthy, as shown by a study by the RAND Corporation that found that when out-of-pocket payments for prescription drugs doubled, patients with diabetes and asthma cut back on their use of drugs by over 20 percent and subsequently experienced higher rates of emergency room visits and hospital stays.

(g) The rising cost of prescription drugs places a disproportionate burden on communities of color, as shown in a report from the Center for Studying Health System Change that found that African-Americans are about 75 percent and Latinos about 50 percent more likely than nonminorities to not have purchased a prescription drug in 2001 because of cost issues.

(h) A prescription drug is neither safe nor effective to an individual who cannot afford it.

(i) California residents face a growing need for assistance in finding information about sources for prescription drugs at affordable prices.

SEC. 2. Section 14981 of the Government Code is repealed.

SEC. 3. Section 14982 of the Government Code is amended to read:

14982. (a) It is the intent of the Legislature that the Department of General Services, University of California, and the Public Employees' Retirement System regularly meet and share information regarding each agency's procurement of prescription drugs in an effort to identify and implement opportunities for cost savings in connection with this procurement. It is the intent of the Legislature that the University

of California and the Public Employees' Retirement System cooperate with the department in order to reduce each agency's costs for prescription drugs.

(b) The department shall do all of the following:

(1) Share information on a regular basis with the University of California and the Public Employees' Retirement System regarding each agency's procurement of prescription drugs, including, but not limited to, prices paid for the same or similar drugs and information regarding drug effectiveness.

(2) Identify opportunities for the department, the University of California, and the Public Employees' Retirement System to consolidate drug procurement or engage in other joint activities that will result in cost savings in the procurement of prescription drugs.

(3) Participate in at least one independent association that develops information on the relative effectiveness of prescription drugs.

(4) Develop strategies, in consultation with the affected agencies, for the state to achieve savings through greater use of generic drugs.

(5) No later than January 1, 2006, and annually thereafter, develop a workplan that includes, but is not limited to, a description of the department's annual activities to reduce the state's costs for prescription drugs and an estimate of cost savings.

(6) No later than January 10, 2006, and annually thereafter, report to the Chairperson of the Joint Legislative Budget Committee and the chairs of the fiscal committees of the Legislature and the appropriate policy committees of the Legislature on activities that have been, or will be, undertaken pursuant to this chapter. The report shall include, but not be limited to, all of the following:

(A) The number and a description of contracts entered into with manufacturers and suppliers of drugs pursuant to Section 14977.1, including any discounts, rebates, or refunds obtained.

(B) The number and a description of entities that elect to participate in the coordinated purchasing program pursuant to Section 14977.5.

(C) A description of any joint activities of the department, the University of California, and the Public Employees' Retirement

System in the last 12 months in connection with procurement of prescription drugs.

(D) Other options and strategies that have been, or will be, implemented pursuant to this chapter.

(E) Estimated costs and savings attributable to activities that have been, or will be, undertaken pursuant to this chapter.

(F) The workplan that the department is required to develop pursuant to paragraph (5).

(c) Nothing in this section shall be construed to require sharing of information that is prohibited by any other provision of law or contractual agreement, or the disclosure of information that may adversely affect potential drug procurement by any state agency.

SEC. 4. Article 5 (commencing with Section 110242) is added to Chapter 2 of Part 5 of Division 104 of the Health and Safety Code, to read:

Article 5. California R Prescription Drug Web Site Program

110242. (a) The California R Prescription Drug Web Site Program is hereby established.

(b) The State Department of Health Services shall administer the program. The purpose of the program shall be to provide information to California residents and health care providers about options for obtaining prescription drugs at affordable prices.

(c) The department shall establish a Web site on or before July 1, 2008, which shall, at a minimum, provide information about, and electronic links to, all of the following:

(1) Prescription drug benefits available to Medicare beneficiaries, including the Voluntary Prescription Drug Benefit Program.

(2) State programs that provide drugs at discounted prices for California residents.

(3) Pharmaceutical manufacturer patient assistance programs that provide free or low-cost prescription drugs to qualifying individuals.

(4) Other Web sites as deemed appropriate by the department that help California residents to safely obtain prescription drugs at affordable prices, including links to Web sites of health plans and health insurers regarding their prescription drug formularies.

(d) The department's Web site shall include price comparisons of at least 150 commonly prescribed prescription drugs, including typical prices charged by licensed pharmacies in the state.

(e) The department shall ensure that the Web site established pursuant to this section is coordinated with, and does not duplicate, other Web sites that provide information about prescription drug options and costs.

(h) Implementation of this section shall be contingent upon an appropriation, if the department determines that the requirements of this section cannot be implemented without additional funding, in which case the department shall request an appropriation from the Legislature for that purpose.

110243. (a) Contracts and change orders entered into pursuant to this article and any project or systems development notice shall be exempt from all of the following:

(1) The competitive bidding requirements of State Administrative Manual Management Memo 03-10.

(2) The project authority requirements of Sections 4800 and following of the State Administrative Manual.

(3) Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(4) Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of the Government Code.

(5) Section 11.05 of, and Provision 6 of Item 4260-001-0001 of, Section 2.00 of the Budget Act of 2005 (Ch. 38, Stats. 2005).

(b) Change orders entered into pursuant to this article shall not require a contract amendment.

Approved _____, 2006

Governor